

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

		Date of mailing (day/month/year) see form PCT/ISA/210 (second sheet)
Applicant's or agent's file reference see form PCT/ISA/220		FOR FURTHER ACTION See paragraph 2 below
International application No. PCT/EP2004/010559	International filing date (day/month/year) 21.09.2004	Priority date (day/month/year) 26.09.2003
International Patent Classification (IPC) or both national classification and IPC A61K31/4545, C07D401/12, C07D409/14, A61P9/00		
Applicant ACTELION PHARMACEUTICALS LTD		

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 eprmu d Fax: +49 89 2399 - 4465	Authorized Officer Bérillon, L Telephone No. +49 89 2399-7078	
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Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - a sequence listing
 - table(s) related to the sequence listing
 - b. format of material:
 - in written format
 - in computer readable form
 - c. time of filing/furnishing:
 - contained in the international application as filed.
 - filed together with the international application in computer readable form.
 - furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. II Priority

1. The following document has not been furnished:
 - copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
 - translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
2. This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. It has not been possible to consider the validity of the priority claim because a copy of the priority document was not available to the ISA at the time that the search was conducted (Rule 17.1). This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
4. Additional observations, if necessary:

Box No. III Non-establishment of opinion with regard to novelty, Inventive step and Industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

the entire international application,
 claims Nos. 30-32 (IA)

because:

the said international application, or the said claims Nos. 30-32 (IA) relate to the following subject matter which does not require an international preliminary examination (*specify*):

see separate sheet

the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
 the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
 no international search report has been established for the whole application or for said claims Nos.
 the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

has not been furnished
 does not comply with the standard

the computer readable form

has not been furnished
 does not comply with the standard

the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

See separate sheet for further details

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or
industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-32
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-32
Industrial applicability (IA)	Yes: Claims	1-29
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rules 43bis.1 and 70.10)
and /or
2. Non-written disclosures (Rules 43bis.1 and 70.9)

see form 210

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

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Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

Claims 30-32 relate to subject-matter considered by this Authority to be covered by the provisions of Rule 67.1(iv) PCT. Consequently, no opinion will be formulated with respect to the industrial applicability of the subject-matter of these claims (Article 34(4)(a)(I) PCT).

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1 Prior art

Reference is made to the following documents:

D1: WO 03/048154

D2: WO 02/076979

2 Novelty (Article 33(2) PCT)

The present compounds differ from D1 and D2 in that their substituent in position 2 of the pyridine ring is not an amino substituent.

3 Inventive step (Article 33(3) PCT)

The technical problem underlying the present application is regarded as the provision of further neurohormonal antagonists, especially urotensin antagonists.

D1 which represents the closest prior art discloses compounds which are urotensin antagonists (see D1, claim 23) and which are structurally closely related to the present compounds. As mentioned in item 2, the D1 compounds differ from the present compounds in view of their amino substituent in position 2 of the pyridinyl ring. In said position, the present compounds have instead an alkyl, arylalkyl or arylethlenyl substituent. It is however known from D2 that the substituent in position

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2 of the pyridyl ring is not an essential feature. In D2, claim 1 it is merely stated that the "pyridin-4-yl may be substituted in position 2". Hence D2 points out to urotensin antagonists having no substituent in position 2 of the pyridine compounds. The skilled person aware of D1 and D2 seeking further urotensin antagonists would therefore not restrict himself to pyridine derivatives having an amino substituent in position 2. It should also be noticed that position 6 of a pyridin-4-yl ring is equivalent to position 2 and can in the case of the D2 compounds also be substituted by an alkyl substituent (see definition of Z in D2, claim 1). Accordingly, the present compounds are anticipated by D1 and D2 and cannot be considered as inventive solution to the posed technical problem.

4 Industrial applicability (Article 33(4) PCT)

For the assessment of the present claims 30-32 on the question whether they are industrially applicable, no unified criteria exist in the PCT Contracting States. The patentability can also be dependent upon the formulation of the claims. The EPO, for example, does not recognize as industrially applicable the subject-matter of claims to the use of a compound in medical treatment, but may allow, however, claims to a known compound for first use in medical treatment and the use of such a compound for the manufacture of a medicament for a new medical treatment.

Re Item VII

Certain documents cited

The priority document pertaining to the present application was not available at the time of establishing this international preliminary examination report. Hence, it is based on the assumption that all claims enjoy priority rights from the filing date of the priority document. If it later turns out that this is not correct, the P-document cited in the international search report could become relevant to assess whether the claims satisfy the criteria set forth in Article 33(1) PCT.

Re Item VIII

Certain observations on the international application

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/EP2004/010559

- 1 Independant claims 1 and 25 relate at least partly to the same subject-matter.
- 2 The definition of "aryl" on page 5 of the description includes heterocyclic ring.

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